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1	EDMUND G. Brown Jr.
2	Attorney General of California  MARC D. GREENBAUM
3	Supervising Deputy Attorney General MICHAEL A. CACCIOTTI
4	Deputy Attorney General State Bar No. 129533
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013
6	Telephone: (213) 897-2932 Facsimile: (213) 897-2804
7	Attorneys for Complainant
	BEFORE THE
8	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 2010-654
12	MICHELLE LEE KOTARSKI 441 W. 3rd Street, Apt. 204
13	San Pedro, CA 90731 A C C U S A T I O N Registered Nurse License No. RN 624395
14	Respondent.
15	Respondent
16	Complainant alleges:
17	PARTIES
18	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20	of Consumer Affairs.
21	2. On or about August 15, 2003, the Board of Registered Nursing issued Registered
22	Nurse License Number RN 624395 to Michelle Lee Kotarski (Respondent). The Registered
23	Nurse License expired on September 30, 2009, and has not been renewed.
24	<u>JURISDICTION</u>
25	3. This Accusation is brought before the Board of Registered Nursing (Board),
26	Department of Consumer Affairs, under the authority of the following laws. All section
27	references are to the Business and Professions Code unless otherwise indicated.
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#### STATUTORY PROVISIONS

- 4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
  - 5. Section 2761 states, in pertinent part, that:

"The Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct . . . ."
- 6. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

7. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

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#### COST RECOVERY

8. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## CONTROLLED SUBSTANCES

- 9. "Dilaudid" is a Schedule II controlled substance as defined in Health and Safety Code section 11055, subdivision (b)(1)(K), and is categorized as a dangerous drug pursuant to section 4022.
- 10. "Morphine" or "Morphine Sulfate" is a Schedule II controlled substance as defined in Health and Safety Code section 11055, subdivision (b)(1)(M), and is categorized as a dangerous drug pursuant to section 4022.
- 11. "Valium" or "Diazepam" is a Schedule IV controlled substance as defined in Health and Safety Code section 11057, subdivision (d)(9), and is categorized as a dangerous drug pursuant to section 4022.

#### FIRST CAUSE FOR DISCIPLINE

# (Dangerous Use of a Controlled Substance)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), in conjunction with section 2762, subdivision (b) in that Respondent used controlled substances in a manner dangerous to herself and others as follows:

#### Patient 9

a. On or about December 5, 2007, Respondent used the controlled substance Valium.

The circumstances are as follows:

Respondent fell asleep while working after having removed a Valium from the Pyxis machine at 1830 hours for Patient 9. There was no record of Respondent wasting the drug and no entry in the Medication Administration Record (MAR) indicating it had been given to Patient 9.

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#### Patient 2

b. On or about January 9, 2008, Respondent used the controlled substance Morphine.

The circumstances are as follows:

At 1013 hours Respondent removed 10 mg of Morphine from the Pyxis machine for Patient 2. Respondent wasted 5 mg with another nurse. There is no indication on the MAR that the additional 5 mg of Morphine was administered to Patient 2. There is also no record of this 5 mg of Morphine being wasted.

At 1712 hours, Respondent removed 4 mg of Morphine from the Pyxis machine for Patient 2. Respondent wasted 1 mg with the Charge Nurse. The MAR documents that 3 mg of Morphine was circled, indicating that Respondent did not give the remaining 3 mg of Morphine to Patient 2. There is also no indication that this 3 mg of morphine was wasted.

A total of 8 mg of Morphine, therefore, was not accounted for.

#### Patient 1

c. On or about Janury 9, 2008, Respondent used the controlled substance Dilaudid. The circumstances are as follows:

Respondent told Charge Nurse Arlene Mocsny (Mocsny) that Patient 1 had changed her mind and did not want the Dilaudid which Respondent had removed from the Pyxis machine at 1734 hours. Respondent then wasted 2mg of Dilaudid with Mocsny in the room, however, Mocsny was not sure if there was medication in the syringe. Respondent did not document the wasted Dilaudid in her nursing notes. Respondent then claimed Patient 1 changed her mind again and wanted the Dilaudid. Respondent then removed the Dilaudid from the Pyxis machine at 1749 hours. Respondent's behavior then became bizarre and erratic: she began yelling and swearing loudly in the nurses' station. When asked to submit to a drug test Respondent refused and left the hospital.

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#### SECOND CAUSE FOR DISCIPLINE

# (Falsification of Hospital or Patient Records)

13. Respondent is subject to disciplinary action under section 2761, subdivision (a), in conjunction with section 2762, subdivision (e), in that Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in a hospital record pertaining to controlled substances. Complainant refers to and incorporates all the allegations contained in paragraph 12, subparagraphs a, b, and c as though set forth fully.

## **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number RN 624395, issued to Michelle Lee Kotarski.
- 2. Ordering Michelle Lee Kotarski to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: 6/22/10

LOUISE R. BAILEY, M.ED., RN

Interim Executive Officer Board of Registered Nursing

Department of Consumer Affairs

State of California

Complainant

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